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Mark A. Keffer
Chief Regulatory Counsel
Atlantic Region

APR 23 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Room 3-D
3033 Chain Bridge Road
Oakton, VA 22185
703 691-6046
FAX 703 691-6093
Email Fax No. 202 263-2692
mkeffer@att.com

April 23, 2001

Magalie R. Salas, Esq.
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

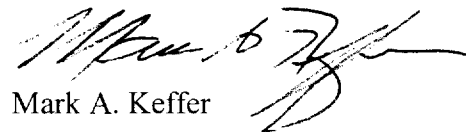
DOCKET FILE COPY ORIGINAL

Re: CC Docket No. 00-251
In the Matter of Petition of AT&T Communications of
Virginia, Inc., TCG Virginia, Inc., ACC National Telecom
Corp., MediaOne of Virginia and MediaOne
Telecommunications of Virginia, Inc. for Arbitration of an
Interconnection Agreement With Verizon Virginia, Inc.
Pursuant to Section 252(e)(5) of the Telecommunications
Act of 1996

Dear Ms. Salas:

Pursuant to the Commission's *Public Notice* DA 01-270 (released February 1, 2001) and the Arbitrator's *Letter Ruling* (March 26, 2001), enclosed for filing in this proceeding are an original and four copies of AT&T's Petition for Arbitration, AT&T's Statement of Unresolved Issues (Attachment A) and its supporting Attachments (B through G). A copy of this letter, with attachments, is being served today on Verizon-Virginia, Inc. by hand delivery.

Sincerely yours,


Mark A. Keffer

cc: Service List

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List A B C D E

Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of
Petition of AT&T Communications
of Virginia, Inc., Pursuant
to Section 252(e)(5) of the
Communications Act, for Preemption
of the Jurisdiction of the Virginia
State Corporation Commission
Regarding Interconnection Disputes
with Verizon-Virginia, Inc.

CC Docket No. 00-251

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of April, 2001, a copy of AT&T's Petition of Arbitration, Statement of Unresolved Issues, and accompanying Attachments in Docket CC No. 00-251 was hand delivered or sent via overnight delivery to:

Dorothy Attwood, Chief
Common Carrier Bureau
Federal Communications Commission
Room 5-C450
445 12th Street, S.W.
Washington, D.C. 20544

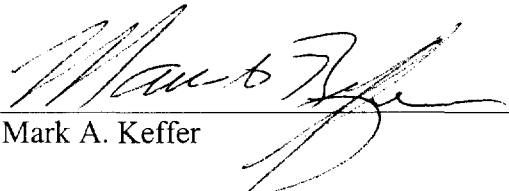
Jeffrey Dygert
Assistant Bureau Chief
Common Carrier Bureau
Federal Communications Commission
Room 5-C317
445 12th Street, S.W.
Washington, D.C. 20544

Katherine Farroba, Deputy Chief
Policy and Program Planning Division
Common Carrier Bureau
Federal Communications Commission
Room 5-B125
445 12th Street, S.W.
Washington, D.C. 20544

Jodie L. Kelley, Esq.
Jenner and Block
601 13th Street, NW
Suite 1200
Washington, DC 20005
(for WorldCom)

Jill Butler
Vice President of Regulatory Affairs
Cox Communications, Inc.
4585 Village Avenue
Norfolk, Virginia 23502

Karen Zacharia, Esq.
Verizon, Inc.
1320 North Court House Road
Eighth Floor
Arlington, Virginia 22201


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Washington, D.C. 20554

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In the Matter of)
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State Corporation Commission)
Regarding Interconnection Disputes)
with Verizon-Virginia, Inc.)
)

CC Docket No. 00-251

**PETITION OF
AT&T COMMUNICATIONS OF VIRGINIA, INC., TCG VIRGINIA, INC.,
ACC NATIONAL TELECOM CORP., MEDIAONE OF VIRGINIA
AND MEDIAONE TELECOMMUNICATIONS OF VIRGINIA, INC.
FOR ARBITRATION OF AN INTERCONNECTION AGREEMENT
WITH VERIZON VIRGINIA, INC.**

April 23, 2001

In the Matter of)
Petition of AT&T Communications)
of Virginia, Inc., Pursuant)
to Section 252(e)(5) of the)
Communications Act, for Preemption) **CC Docket No. 00-251**
of the Jurisdiction of the Virginia)
State Corporation Commission)
Regarding Interconnection Disputes)
with Verizon-Virginia, Inc.)

This is a matter of first impression. After the Virginia State Corporation Commission declined to arbitrate the interconnection and pricing disputes between AT&T's affiliates and Verizon Virginia, Inc, AT&T requested, and the FCC agreed, that the FCC will arbitrate the disputes between the parties. Thus, for the first time, the FCC has an opportunity to apply its pricing rules to establish rates for unbundled network elements, to implement its principles for interconnection, and to establish terms and conditions for an interconnection agreement that will, *inter alia*, foster the development of competitive local exchange services.

2

Communications of Virginia, Inc., TCG Virginia, Inc., ACC National Telecom Corp., MediaOne of Virginia, and MediaOne Telecommunications of Virginia, Inc. (collectively, "AT&T"), respectfully request the FCC to arbitrate a number of open issues resulting from the interconnection negotiations between AT&T and Verizon Virginia, Inc. (collectively, the "Parties"). Specifically, AT&T requests that the FCC resolve each of the issues designated herein as unresolved by ordering the Parties to incorporate AT&T's position in the interconnection agreement to be executed by the Parties.

PARTIES

1. AT&T Communications of Virginia, Inc. is a telecommunications carrier authorized to provide competitive local exchange services in Verizon's Virginia's service territory by virtue of a certificate of public convenience and necessity issued by the Virginia State Corporation Commission on June 28, 1996 in Case No. PUC960006. TCG Virginia, Inc. is a telecommunications carrier authorized to provide competitive local exchange services in Verizon's Virginia's service territory by virtue of a certificate of public convenience and necessity issued by the Virginia SCC on November 8, 1996 in Case No. PUC960085. ACC National Telecom Corp. was an affiliate of TCG Virginia, Inc. at the time TCG merged with AT&T, and is now a subsidiary of AT&T Corp. MediaOne of Virginia is a telecommunications carrier authorized to provide competitive local exchange services in Verizon's Virginia's service territory by virtue of a certificate of public convenience and necessity issued by the Virginia SCC on December 19, 1996, in Case No. PUC960120 (at which time the company was named Alternet of Virginia). MediaOne Telecommunications of Virginia, Inc. is a telecommunications carrier

authorized to provide competitive local exchange services in Verizon's Virginia's service territory by virtue of a certificate of public convenience and necessity issued by the Virginia SCC on December 19, 1996 in Case No. PUC960119 (at which time the company was named CCI Telecommunications of Virginia). Each of these companies is now a subsidiary of AT&T Corp.

2. Verizon Virginia, Inc. ("Verizon") is a corporation formed as a result of the merger of Bell Atlantic and GTE on or about June 30, 2000. Verizon Virginia is an incumbent local exchange carrier ("ILEC") in Virginia as defined by Section 251(h) of the Act.¹ Within its operating territory, Verizon Virginia has been the incumbent local exchange provider of telephone exchange services at all relevant times. Verizon Virginia also is a "Bell Operating Company," or BOC (as that term is defined by Section 3(35) of the Telecommunications Act of 1996 ("Act")).²

3. This Petition is filed pursuant to § 252(e)(5) of the Act. AT&T hereby certifies that it is in compliance with the duty to negotiate in good faith provision of 47 USC §252(c)(1).

¹ 47 U.S.C. §251(h).

² 47 U.S.C. §153(35).

AT&T's DESIGNATED REPRESENTATIVES

4. AT&T is represented in this proceeding by the following:

Mark A. Keffer
AT&T
3033 Chain Bridge Road
Oakton, Virginia 22185
703 691-6046 (voice)
703 691-6093 (fax)
mkeffer@att.com

G. Ridgley Loux
AT&T
3033 Chain Bridge Road
Oakton, Virginia
703 691-6069 (voice)
703 691-6093 (fax)
grloux@att.com

Ivars V. Mellups
AT&T
3033 Chain Bridge Road
Oakton, Virginia 22185
703 277-7343 (voice)
703 691-6093 (fax)
mellups@att.com

Michael A. McRae
AT&T
3033 Chain Bridge Road
Oakton, Virginia 22185
703 691-6047 (voice)
703 691-6093 (fax)
michaelmcrae@att.com

Richard Rubin
AT&T
295 N. Maple Avenue
Basking Ridge, NJ 07920
908 221-4481 (voice)
908 221-4490 (fax)
rhrubin@att.com

Ellen Schmidt
AT&T
99 Bedford Street
Boston, MA 02111
617 574-3179 (voice)
617 574-3274 (fax)
ewschmidt@att.com

Stephanie Baldanzi
AT&T
3033 Chain Bridge Road
Oakton, Virginia 22185
703 691-5362 (voice)
703 691-6093 (fax)
sbaldanzi@att.com

David Levy
Sidley & Austin
1722 Eye Street, N.W.
Washington, DC 20006
202 736-8214 (voice)
202 736-8711 (fax)
dlevy@sidley.com

Robert Quinn
AT&T
1120 20th St., N.W.
Washington, DC 20036
202 457-3851 (voice)
202 263-2655 (fax)
rwquinn@att.com

Matthew Nayden
Ober, Kaler, Grimes & Shriver
120 E. Baltimore St.
Baltimore, MD 21202
410 347-7328 (voice)
410 347-0699 (fax)
mwnayden@ober.com

AT&T reserves the right to modify this list as the needs of the proceeding dictate.

JURISDICTION

5. This Commission has jurisdiction over AT&T's Petition pursuant to Section 252(e)(5) of the Act.³ Under the Act, parties to a negotiation for interconnection, access to unbundled network elements ("UNEs"), and/or resale of services within a particular state have a right to petition the state commission for arbitration of any open issues when negotiations between them fail to yield an agreement.⁴ Where, as here, the state commission declines the request to arbitrate, then under Section 252(e)(5) of the Act, the FCC "shall assume the responsibility of the State commission . . . and act for the state commission." The FCC granted AT&T's petition for preemption by a Memorandum Opinion and Order released January 26, 2001, finding that "the Virginia Commission expressly refused to apply federal law, citing the uncertainty surrounding the availability of Eleventh Amendment immunity from federal appeal under the Act."⁵

BACKGROUND

6. The AT&T Corp. subsidiaries – TCG Virginia, Inc., ACC National Telecom Corp., MediaOne of Virginia, and MediaOne Telecommunications of Virginia, Inc. each of which had previously been independent entities, and AT&T Communications of Virginia, Inc. had entered into separate interconnection agreements with Verizon (then known as Bell Atlantic) in 1997 and 1998. Verizon notified AT&T that it was

³ 47 U.S.C. §252(e)(5).

⁴ 47 U.S.C. §252(b).

⁵ *Memorandum Opinion and Order* at 3.

terminating these agreements and that replacement agreements would have to be negotiated and/or arbitrated.

7. By letter dated September 29, 1999, AT&T requested that Verizon negotiate a new interconnection agreement, pursuant to Sections 251 and 252 of the Act, for the AT&T entities. More than fifty negotiating sessions followed – some in person, most by telephone – and AT&T and Verizon reached negotiated resolutions on many issues. Many other issues, however, remained in dispute. AT&T therefore filed a petition with the VSCC on October 20, 2000, requesting that it arbitrate those open issues, and Verizon filed its Answer on November 14, 2000.⁶

8. At the time AT&T filed its petition with the VSCC, the VSCC had already issued at least four orders declining to arbitrate interconnection disputes. In each of these orders, the VSCC had stated that it was unwilling to waive sovereign immunity and submit to the jurisdiction of federal courts pursuant to Section 252(e)(6) of the Act (and, indeed, did not regard itself as authorized by Virginia law to do so). It therefore stated that, in order to avoid any claim of any such waiver, it would arbitrate interconnection disputes under state law only, and that parties that wished to invoke federal law would be required to bring their arbitrations to this Commission instead.⁷ Anticipating that the

⁶ See AT&T Communications of Virginia, Inc., et al., Petition for Arbitration of Interconnection Terms, Conditions, and Prices with Verizon-Virginia, Inc. (“AT&T Arbitration Petition”), Answer of Verizon Virginia, Inc. to the Petition filed by AT&T Communications of Pennsylvania (sic).

⁷ See Order, *Petition of Cavalier Telephone, LLC, for Arbitration and Interconnection Rates, Terms, and Conditions, and Related Relief*, Case No. PUC990191 (June 15, 2000); Final Order, *Petition of Focal Communications Corporation of Virginia for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Verizon Virginia Inc. f/k/a/ Bell Atlantic – Virginia, Inc.*, Case No. PUC000079 (August 22, 2000); Order, *Petition of MCIMetro Access*

VSCC would take the same position on AT&T's petition, AT&T stated in its petition that if the VSCC did so, AT&T would "request that the FCC assume jurisdiction over this arbitration pursuant to § 252(e)(5) of the Act."⁸

9. On November 22, 2000, the VSCC issued an order addressing AT&T's petition in the same manner as it had the recent petitions by other CLECs.⁹ It gave the parties the same choice it had previously give others: they could "elect to proceed with AT&T's arbitration under the [federal] Act before the Federal Communications Commission in lieu of this Commission, or the parties may pursue resolution of unresolved issues pursuant to [state law]. If AT&T wishes to pursue this matter before the [Virginia] Commission, the proceeding before [the Virginia SCC] will be deemed to be requesting our action only under authority of Virginia law and our Rules."¹⁰ By letter

Transmission Services of Virginia, Inc. and MCI WorldCom Communications of Virginia, Inc. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Bell Atlantic – Virginia, Inc., Case No. PUC000225 (September 13, 2000); Order of Dismissal, *Petition of Cox Virginia Telcom, Inc., Requesting Party, v. Verizon Virginia Inc. f/k/a/ Bell Atlantic-Virginia Inc., Responding Party, for Declaratory Judgment and Conditional Petition for Arbitration of Unresolved Issues by the State Corporation Commission Pursuant to Section 252 of the Telecommunications Act of 1996 or Alternative Petition for Dismissal*, Case No. PUC000212 (November 1, 2000).

⁸ AT&T Arbitration Petition, ¶ 19.

⁹ At the same time that the VSCC disposed of AT&T's request for arbitration, it also dismissed a prior petition for declaratory judgment that AT&T had filed in which AT&T had asked the VSCC to declare whether it would decline to arbitrate interconnection disputes between AT&T and Verizon under federal law. As the VSCC correctly recognized, the filing of AT&T's arbitration petition rendered moot AT&T's petition for declaratory judgment. See Order, *Application of AT&T Communications of Virginia, Inc., et al., for Arbitration of Interconnection Rates, Terms, and Conditions, and Related Arrangements with Verizon-Virginia Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Case No. PUC000282 (November 22, 2000) ("VSCC Order") at 4.

¹⁰ *Id.*, p. 3.

dated December 4, 2000, AT&T informed the VSCC that it would not be pursuing arbitration solely under Virginia law.

10. On December 15, 2000, AT&T filed its Petition for Preemption with the FCC. As it had done previously in response to similar petitions from Cox and WorldCom, the FCC on January 26, 2001, granted AT&T's petition and instructed the Chief of the Common Carrier Bureau to "issue a public notice and a pleading schedule" for the arbitration.

11. Prior to ruling on AT&T's preemption petition, the FCC, in response to the petition it had already received from Cox and Worldcom, had already issued its *Procedures Order* "authoriz[ing] the Chief of the Common Carrier Bureau to serve as the arbitrator in section 252(e)(5) proceedings, with the assistance of the staff of the Common Carrier and Enforcement Bureaus."¹¹

12. On February 1, 2001, the Chief of the Common Carrier Bureau issued a public notice, *Procedures Established for Arbitration of Interconnection Agreements Between Verizon and AT&T, Cox and Worldcom* ("*Procedures Notice*"), clarifying many of the procedural requirements for the arbitrations and requiring, among other things, that "before the filing of any Petition for Arbitration pursuant to the Preemption Orders, AT&T, Cox, WorldCom and Verizon shall contact the Arbitrator to schedule a joint pre-filing conference."¹² In response to the parties' request, the Chief of the Common Carrier Bureau, by letter of March 12, 2001, scheduled the pre-filing conference for

¹¹ *In the Matter of Procedures for Arbitrations Conducted Pursuant to Section 252(e)(5) of the Communications Act of 1934, as Amended*, Order released January 19, 2001.

¹² *Procedures Notice* at 2.

March 22, 2001. The letter instructed the parties to be prepared to discuss (a) the status of interconnection negotiations, including any unresolved issues, (b) the procedures to be followed in the arbitration proceeding, (c) discovery procedures, (d) the need for a protective order, if any (e) potential consolidation of arbitration proceedings, and (f) a proposed procedural schedule.

13. In preparation for the conference, Cox, WorldCom and AT&T filed a joint *Prefiling Memorandum* on March 13, 2001, addressing the various topics to be discussed. Verizon responded on March 21, 2001.

14. The pre-filing conference occurred as scheduled, and on March 27, 2001, the Chief of the Common Carrier Bureau issued a letter ruling on various issues addressed during the conference. The ruling established a procedural schedule which, *inter alia*, requires the filing of this arbitration petition on April 23, 2001, but deferred the filing cost studies and related material until July 2, 2001, to allow the parties an opportunity to engage in discovery. The letter ruling also acknowledged that Cox, WorldCom and AT&T would be filing separate petitions for arbitration, but ultimately would be seeking to have certain common issues consolidated for consideration. To facilitate consolidation, the letter ruling directed the parties to “assign shared issues the same number in their various petitions, to facilitate staff’s assembly of a unified list of issues.”

COMMON ISSUE NUMBERING CONVENTION

15. To date, Cox, WorldCom and AT&T have shared information about common issues being raised their respective arbitration petitions and have attempted to assign them common numbers. This will facilitate the Arbitrator’s development of a

common issues list and, ultimately, the consolidation of shared issues for arbitration.

Issues are numbered according to the following convention:

ROMAN NUMERAL	ISSUE CATEGORY
I	Issues common to Cox, WorldCom and/or AT&T. This category includes all eleven of the issues being raised by Cox, including a very small number (one or two) unique to Cox.
II	Pricing and costing issues. WorldCom and AT&T will present consolidated positions on these issues on July 2, 2001, in accordance with the Arbitrator's schedule .
III	Joint WorldCom and AT&T issues
IV	"WorldCom only" issues
V	"AT&T only" issues

Thus, each issue is identified by a two-digit designation. The first is a Roman numeral indicating the category listed above. The second is an Arabic numeral indicating the issue number within the category. This means, for example, the first combined issue raised by Cox, WorldCom and AT&T is numbered I-1 by all three parties. The first issue common to WorldCom and AT&T, but not Cox, is numbered by both WorldCom and AT&T as Issue III-1.

16. While the parties have made best efforts to identify and label common issues with common numbers, review of the arbitration petitions may reveal instances where issues common to WorldCom and AT&T have not been numbered correctly. If and when any such issues are identified, those parties will jointly move the change the numbering for that issue to make it consistent with the format described above.

CONSOLIDATION

17. The Chief of the Common Carrier Bureau has deferred any action on AT&T's request to consolidate its arbitration with that of Cox and WorldCom "until such time as any arbitration petitions are filed."¹³ More recently, and as a further clarification on the consolidation question, the Chief acknowledged as a "reasonable approach" the Cox, WorldCom and AT&T proposal to submit separate arbitration petitions with common issues designated by common numbering, to be followed by a request for consolidation.¹⁴ AT&T will renew its request for consolidation at the appropriate time.

18. It bears noting at this stage of the proceeding, however, that a request for consolidation does not necessarily mean that the parties are seeking identical resolution of an issue. For example, if one of the issues to be arbitrated is whether Verizon has the right to collocate at a CLECs premises, AT&T (as well as Cox and WorldCom) would argue, on a consolidated basis, that the Act does not give Verizon any such right, and would ask the Commission to endorse that principle. However, the specific contract language submitted by each party might vary somewhat, in that one CLEC may be willing voluntarily to allow Verizon into its space under certain conditions (and in exchange for certain commitments from Verizon), another might be willing to allow Verizon in voluntarily under different conditions, and the third might not want Verizon in its space under any circumstances. In each instance, the governing legal principle would be the same, but the specific contract language implementing the parties' rights under that

¹³ January 26, 2001, *Memorandum Opinion and Order*, at ¶ 7.

language would be somewhat different, based on each party's needs. The point to be made here is a simple one: consolidation extends to the overarching legal principle, but not necessarily to contract language tailored to each CLEC's unique business plans and needs. The point will be addressed in greater detail at the time AT&T and others file appropriate requests for consolidation.

AT&T-VERIZON NEGOTIATIONS

19. AT&T and Verizon have been involved in active negotiations for nearly two years. Recognizing that those discussions were not going to resolve all issues, AT&T in the past several months has filed petitions for arbitration with Verizon in Pennsylvania, Maryland, New Jersey and New York, in addition to the Virginia petition that is the subject of this arbitration. In many instances, the filing of the petitions and responses has helped the parties to sharpen their focus and, consequently, AT&T and Verizon have been able to resolve a number of issues, narrow the scope of others, and clarify points of disagreement. As a result, the list of issues AT&T seeks to have arbitrated in this proceeding is shorter and somewhat modified from what AT&T filed with the Virginia State Corporation Commission in October. Still, it must be noted that much of the movement has been on the less contentious matters, while on the major issues, such as, by way of example, UNE pricing, network architecture, and access to UNEs, substantial disagreements remain to be arbitrated.

20. The parties have been able to resolve a number of issues through negotiations, chief among them being: the methods of resolution of disputes arising

14 March 26, 2001 *Letter Ruling* at 2.

under the interconnection agreement, provisions governing the confidentiality of information exchanged in connection with obligations under the agreement, the methods and procedures by which the parties will handle their respective obligations concerning the payment and remittance of taxes, and other miscellaneous terms and conditions such as audits, choice of law, severability and subcontracting. Substantive provisions concerning dialing parity, assignment of numbering resources, customer contacts and authorization, the applicability and implementation of Verizon's Bona Fide Request process, and network maintenance were also resolved, as were a substantial number of the issues involved in number portability, directory service arrangements and Verizon's resale obligations.

COMMISSION FILING REQUIREMENTS

21. The February 1, 2001 *Procedures Notice*, at paragraph 2.1, set forth a list of items to be included with the request for arbitration:

a) The name address, telephone number, facsimile number, and e-mail address of each party to the negotiations and each party's designated representative

The requested information for AT&T's counsel is set forth above at paragraph 4.

b) A description of each party's efforts to resolve their differences through negotiations.

This description is set forth above at paragraph 19.

c) A list of every unresolved issue, categorized by subject matter, and the position of the parties on each issue (Statement of Unresolved Issues).

The list is set forth at Attachment A, and includes a list of the issues, the parties' position on each, the identity of AT&T's witness and counsel, and the discussion of relevant authority required by paragraph 2.2 of the *Procedures Notice*.

d) A list of the issues that have been resolved by the parties.

Discussed in paragraph 20, above.

e) The most current version of the interconnection agreement being negotiated by the parties, containing both the agreed upon language and disputed language each party proposes.

Provided as Attachment B

f) A copy of the interconnection agreement, if any, under which the parties are currently operating.

The existing interconnection agreements for the four AT&T entities are set forth at Attachments C, D, E and F.

g) A copy of all pleadings in the arbitration proceeding before the state commission and of any letters, orders or rulings of the state commission in that proceeding.

The requested materials are bound at Attachment G. These documents have previously been submitted to the FCC as attachments to AT&T's Petition for Preemption. However, in order to save paper and copying expenses, Attachment G does not contain the three volumes of "relevant documents" which were initially filed with the Virginia SCC. These documents have been previously provided to Verizon and filed with this Commission with AT&T's Petition for Preemption. Courtesy copies of the three volumes are being provided to the Chief of the Common Carrier Bureau and, upon request, will be provided to any other requesting party.

h) A list identifying every person with knowledge upon whom Petition intends to rely to support its position on each unresolved issue.

AT&T Statement of Unresolved Issues (Attachment A) lists AT&T's witness and counsel for each issue. AT&T reserves the right to supplement its witness list, and to add or substitute counsel, depending upon Verizon's responses to AT&T's Statement of Unresolved Issues.

i) Copies of all cost models, cost studies, and other studies upon which Petition intends to rely to support its position, and any documentation underlying those cost models, cost studies and other studies.

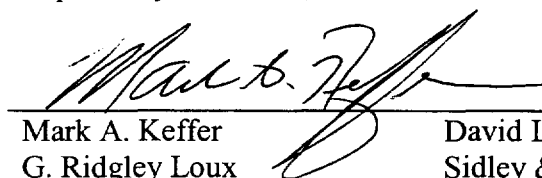
Computerized models must be submitted in a form that allows the Arbitrator and the parties to alter inputs and determine the effect on cost estimates.

The requested information will be submitted on July 2, 2001, in conformance with the Arbitrator's schedule set forth in the March 27, 2001 letter ruling.

CONCLUSION

AT&T respectfully requests that the Arbitrator render an arbitration decision approving AT&T's positions set forth on the Statement of Unresolved Issues and to approve AT&T's Proposed Interconnection Agreement between the AT&T entities and Verizon which implements that decision.

Respectfully submitted,



Mark A. Keffer
G. Ridgley Loux
Ivars V. Mellups
Michael A. McRae
Stephanie Baldanzi
AT&T
3033 Chain Bridge Road
Oakton, Virginia 22185
703 691-6046 (voice)
703 691-6093 (fax)

David Levy
Sidley & Austin
1722 Eye Street, N.W.
Washington, DC 20006
202 736-8214 (voice)
202 736-8711 (fax)

Richard Rubin
AT&T
295 N. Maple Avenue
Basking Ridge, NJ 07920
908 221-4481 (voice)
908 221-4490 (fax)

Matthew Nayden
Ober, Kaler, Grimes &
Shriver
120 E. Baltimore St.
Baltimore, MD 21202
410 347-7328 (voice)
410 347-0699 (fax)

Ellen Schmidt
AT&T
99 Bedford Street
Boston, MA 02111
617 574-3179 (voice)
617 574-3274 (fax)

April 23, 2001

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Petition of AT&T Communications
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**PETITION OF AT&T COMMUNICATIONS OF VIRGINIA, INC.,
TCG VIRGINIA, INC., ACC NATIONAL TELECOM CORP.,
MEDIAONE OF VIRGINIA, AND MEDIAONE TELECOMMUNICATIONS OF
VIRGINIA, INC. FOR ARBITRATION OF AN
INTERCONNECTION AGREEMENT WITH VERIZON VIRGINIA, INC.**

April 23, 2001

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UNE PRICING

II.1.a. What is the relevant economic standard for setting the prices of the unbundled network elements and interconnection that Verizon is required to provide CLECs?

II.1.b. Which cost models or studies in this proceeding provide the best framework for estimating the recurring costs of network elements and interconnection provided by Verizon?

II.1.c. What cost assumptions and inputs (e.g., cost of capital, depreciation lives, fill factors, switching equipment prices, network architecture, cable sizes, input units costs) should be used to estimate the recurring costs of network elements and interconnection provided by Verizon?

II.1.d. What rate schedules should be established for each network element and interconnection service provided by Verizon, including an appropriate measure of deaveraging for customer density and other cost determinants?

These issues will be addressed concomitantly with AT&T's Cost Studies to be filed on July 2, 2001, pursuant to the Arbitrator's schedule.

Nonrecurring Charges

NON-RECURRING CHARGES

II.2.a. What is the relevant economic standard for establishing nonrecurring charges applicable to CLECs ordering unbundled network elements and interconnection from Verizon?

II.2.b. Which cost models in this proceeding provide the best framework for estimating the nonrecurring costs of network elements and interconnection provided by Verizon?

II.2.c. What cost assumptions and inputs (e.g., ratio of copper/fiber feeder, fallout rates, central office task times, treatment of disconnection costs, coordination requirements, need for truck rolls) should be used to estimate the recurring costs of network elements and interconnection provided by Verizon?

II.2.d. What rate schedules should be established for each network element and interconnection service provided by Verizon, including an appropriate measure of deaveraging for customer density and other cost determinants?

These issues will be addressed concomitantly with AT&T's Cost Studies to be filed on July 2, 2001, pursuant to the Arbitrator's schedule.